

Panel Formation Process for Consultants Serving the FIFRA Scientific Advisory Panel Through Membership on the Food Quality Protection Act Science Review Board

Section 104 of the Food Quality Protection Act of 1996 (Public Law 104-70) established a Science Review Board (FQPA Science Review Board) consisting of at least 60 scientists who shall be available to the FIFRA Scientific Advisory Panel (FIFRA SAP) on an ad-hoc basis to assist in reviews conducted by the Panel. The purpose of this document is to describe the process of identifying candidates and selecting expert consultants to serve on the FQPA Science Review Board for a FIFRA SAP session.

Background

- FQPA Science Review Board members provide additional scientific expertise to augment the knowledge-base of the FIFRA SAP.
- Similar to FIFRA SAP members, Board members offer technically and scientifically sound, independent peer review, and have not previously been associated with either the Agency, associated regulated industries, or stakeholder communities, nor stated a position on the particular matter being reviewed.
- The Agency strives to have the panel formation process transparent to the public so they can understand and participate in the process.

Balanced Technical Expertise of the Panel

- Balanced membership is driven by a number of considerations characterized by: inclusion of the necessary areas of technical expertise, different scientific perspectives within each technical discipline, and the collective breadth of experience needed to address the Agency's charge.
- The FIFRA SAP is chartered to provide expert scientific advice. This charter distinguishes the FIFRA SAP from representative advisory committees that exist to provide advice related to stakeholder viewpoints. Thus, FIFRA SAP participation is balanced based on the function of the technical expertise required, not by various stakeholders' points of view.

Stages in Panel Formation Process

1) Identification of Candidates

Technical expertise required

- The FIFRA SAP Staff Office works with the Agency Program Offices to identify areas of technical expertise needed for each meeting including, but not limited to, toxicology, pathology and environmental biology.

Nominations

- Nominations are solicited through a Federal Register notice announcing the FIFRA SAP meeting, Permanent Panel members, staff of the Agency Program Office, scientists already nominated, professional/scientific societies, and other identifiable stakeholder community representatives.
- Published scientific literature is reviewed in a search for technical experts.

2) Screening

Interview

- Each nominee is interviewed to assess interest, availability, and appropriateness to serve on a session (interview questions attached).

Expertise

- Curriculum Vitae and related information (e.g. recent publications) are reviewed to verify relevant expertise for the topics under review.

Ethics considerations

- Expert Consultants to the FIFRA SAP through membership on the FQPA Science Review Board, are hired as Federal Special Government Employees and are subject to the provisions of the Federal Advisory Committee Act and Ethics in Government Act of 1978.
- A Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency (EPA Form 3110-48) must be completed [sample form available on EPA FIFRA SAP web site].
- FIFRA SAP Staff Designated Federal Official, FIFRA SAP Executive Secretary and Office Deputy Ethics Official review completed form to determine whether there is a financial conflict between the Science Review Board member's public responsibilities and private interests/activities and the appearance of impartiality.

3) Panel selection

- Technical and scientific expertise and experience are the primary selection criteria.
- Summary of other factors:
 - Availability and willingness to serve.
 - Scientific credibility and independence.
 - Lack or absence of a conflict of interest.
- Exercising professional judgement, the FIFRA SAP Executive Secretary, in consultation with the FIFRA SAP Designated Federal Official, Panel session chair and Permanent Panel members, makes final decision on expert consultant selection(s).

Checklist for Telephone Interview for Expert Consultants Serving the FIFRA SAP Through Membership on the FQPA Science Review Board (SRB)

Purpose

The purpose of this checklist is to provide a standard operating procedure (SOP) for SAP Designated Federal Officials (DFO) to follow when conducting telephone interviews with prospective candidates for membership on the FQPA SRB. The checklist covers DFO activities prior to the interview as well as points to cover during the telephone call (denoted by ● bullets). Key decisions points are highlighted throughout the checklist (denoted by ◆ bullets and larger, *italicized* text).

Background (Before Calling)

- Become familiar with the meeting profile sheet. Discuss profile sheet with Program Office leads for a full understanding of the topic and issues.
- ◆ *Decide whether topic is a matter of general applicability or a particular matter involving specific parties.*
- ◆ *Identify a Chair for the SAP session from the 7 permanent SAP members.*
- ◆ *Define expertise needed for the meeting discussions (e.g., toxicology, chemistry, risk assessment, statistics, etc.)*

Points to Cover During Interview

General

In general, the FIFRA SAP is looking for candidates who do not have financial conflict of interest concerns and can render impartial advice (e.g., do not have preformed positions that have been publicly stated).

- Keep copy of meeting profile sheet available for reference during telephone call.
- Discuss meeting topic and dates providing as much background as possible.
- Inquire about expertise, interest and availability.
- ◆ *Decide whether candidate has correct expertise.*

FIFRA § 25(d)

- Description and role of the FIFRA SAP (e.g., 7 members, scientific peer review, etc.)
- Description and role of the FQPA Science Review Board

FACA

- Requirements for open deliberations, public participation, and access to documents
- Ask about service on other FACAs (130 day limit for SGEs across all FACAs)

Ethics

- Background on financial conflict of interest (statutory conflicts and appearance problems)

- For particular matters involving specific parties - de minimis exemption of **\$15,000**.

- For particular matters of general applicability - de minimis exemptions of **\$25,000** for one entity or **\$50,000** for all affected entities.

- Requirement for Special Government Employees to file the Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. EPA (3110-48).

- Review form Form 3110-48. A copy can be faxed or e-mailed to assist with this discussion. (Note - if the candidate has a current 3110-48, this part of the interview can be used to update the form by recording any changes to each Part).

18 U.S.C. 208 - *An employee is prohibited from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he or any person whose interests are imputed to him under the statute has a financial interest, if the particular matter will have a direct and predictable effect on that interest.*

5 C.F.R. 2635.502 - *Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter and where the person determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee.*

- Part 1: Statement regarding any change. . .

Note to disregard Part 1 unless the candidate has a current Form 3110-48 filed with the Agency.

- Part 2: Compensated Employment

Candidate reports any positions for self or spouse held in the preceding 2 years.

- Part 3: Non-Compensated Employment

Candidate Reports any NC elected or leadership positions held by self or spouse in the preceding 2 years.

- Part 4: Research Support and Project Funding

Include grants, contracts, and other funding mechanisms for preceding 2 years if PI, PM, significant collaborator, or Director (self and spouse).

- Part 5: Consulting Activities

For self and spouse for preceding 2 years - be sure to include name of client

- Part 6: Compensated Expert Testimony

For self and spouse for preceding 2 years.

- Part 7: Assets: Stocks, Bonds, Real estate, etc.

For self, spouse and dependent children, with collective, fair market value greater than \$15,000 during preceding 2 years. Not diversified mutual funds unless you have control over the specific investment assets.

- Part 8: Liabilities

For self, spouse, and dependent children, greater than \$10,000 during preceding 12 months (not mortgages and car loans).

- Part 9: Identification of other information

Any other information relevant to financial conflict of interest or the appearance of lack of impartiality.

- Questions about independence and bias (Note - record answers in Part 9 of Form 3110-48 if a current form is on file for the candidate; otherwise instruct the candidate to address these questions in completing Part 9).

- For the topic of the upcoming meeting, have you had any previous involvement with the review document(s) under consideration, including authorship, collaboration with the authors, or previous peer review functions? If so, please identify that involvement.

- Have you served on previous advisory panels or committees that have addressed the topic under consideration? If so, please identify those activities.
- Have you made any public statements (written or oral) on the issue? If so, please identify those statements.
- Have you made any public statements that would indicate to an observer that you have taken a position on the issue under consideration? If so, please identify those statements.

Meeting Process

1. Pre-meeting

- Panel assignments: report coordinator and lead discussants; panel members are assigned to questions (though free to comment on any question or other relevant issues)
- Pre-meeting teleconference - administrative issues
- Review background materials, prepare comments, and coordinate comments with report coordinator or lead discussants prior to meeting.
- Comments are not restricted solely to the charge questions

2. Meeting

- Must discuss comments at the meeting for them to be summarized in the report
- Meeting discussion focuses on scientific topics (not policy and regulation)
- Participate actively at the meeting - again, only issues discussed at meeting can be included in report (though sometimes, post meeting thoughts can be captured in an appendix).

3. Post-meeting

- Coordinate final comments (as conveyed during the meeting) with the report coordinator and lead discussants
- DFO coordinates with the session chair on the minutes to ensure accuracy, thoroughness, completeness, and timeliness.
- Panel session chair approves the minutes.

Additional Information

<http://www.epa.gov/scipoly/sap/index.htm>

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